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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,673	03/12/2001	Gary P. Rochelle	AQTP116898	3661
26389	7590	02/14/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			BOCHNA, DAVID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,673

Applicant(s)

ROCHELLE, GARY P.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-19,23,24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1,3-19,24,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 10-19, 24, 26 and 72 are withdrawn in view of the newly discovered reference(s) to McIlroy and Henderson. Rejections based on the newly cited reference(s) follow.

2. Claim 23 is allowed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-7, 24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by McIlroy.

In regard to claim 1, McIlroy discloses a fitting and pipe section assembly that is capable of being installed in tubing of a jetted bath to render the tubing adaptable to accept a close comprising:

a pipe section having a center segment 10 integrally formed with inlet 12 and outlet 14 end portions of the pipe section for fluid flow coupling to an inlet and an outlet of the tubing, wherein the pipe section includes indicia 13a for guiding cutting of the pipe section at a predetermined location; and

a first fitting (socket end 12) coupled to the inlet portion and a second fitting (socket end 14) coupled to the outlet portion of the pipe section, wherein each of the first and second fittings

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include an engagement surface (exteriors of 12 and 14) adapted to couple to a fitting of a close fit device, wherein when the center segment 10 is coupled to the tubing 16, 18, the engagement surfaces (exteriors of 13 and 14) are disengaged from any fitting.

In regard to claim 3, wherein the fitting and pipe section assembly is an integral body.

In regard to claim 4, wherein the close fit device may be removably secured to the inlet and outlet end portions of the pipe section by a fastening assembly (“may be” is considered intended use and is given little patentable weight as long as the prior art of record contains all the structural limitations recited by the applicant and is capable of fulfilling the intended use. In this case a “close fit device” “may” be removably secured to the inlet and outlet portions of the pipe section by a fastening assembly. In claims 1 and 3-9 only a fitting and a pipe section are being positively recited, where the fitting and pipe section are “adaptable to accept a close fit device”, therefore McIlroy does not have to disclose the close fit device in order to anticipate the claim, the same applies to claims 5-9 and 24).

In regard to claim 5, wherein the fastening assembly (the fastening assembly is not being positively recited) comprises a union nut and a split nut retainer.

In regard to claim 6, wherein the close fit device (not positively recited) has an inlet and an outlet with flanges positioned at the inlet and outlet;

wherein the fastening assembly comprises an outer seal which may be positioned between the inlet end portion and one of the flanges, a split nut which may be tightened upon the inlet end portion by rotating the split nut, and a nut cover which may be slid over the tightened split nut.

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In regard to claim 7, wherein the close fit device (not positively recited) is selected from the group consisting of a heater, ozone generator, chemical dispenser, fragrance dispenser, filter, pump, valve, flow meter, or water softener.

In regard to claims 24 and 27, McIlroy discloses a fitting and pipe section assembly that is capable of being installed in tubing of a jetted bath to render the tubing adaptable to accept a close fit device, comprising:

(a) a pipe section having a center segment 10 disposed between inlet and outlet end portions for fluid flow coupling to an inlet 16 and an outlet 18 of the tubing, wherein the pipe section includes first and second indicia 13a on the pipe section (“that guide post-installation cutting of the pipe section at predetermined points and removal of the center segment” is intended used and given little patentable weight for the same reasons stated above); and

(b) first and second fittings (socket ends 12 and 14) disposed on the inlet and outlet portions of the pipe section; wherein the center segment of the pipe section (“may be selectively removed leaving the inlet and outlet portions including the first and second fittings” is intended use); and wherein the fitting and pipe section assembly (“may accept the close fit device between the inlet and outlet portions of the fitting and pipe section assembly” is intended use).

In regard to claim 26, wherein the first and second fittings each include an engagement surface (exterior surfaces of the socket sections 12 and 14) (“adapted to couple to a fitting of the close fit device” is intended use), wherein when the center segment 10 is coupled to the tubing 16, 18, the engagement surfaces (exteriors of 12 and 14) are disengaged from any fitting.

5. Claims 10-16, 19 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Henderson.

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In regard to claim 10, Henderson discloses a fitting and pipe section assembly that is capable of being installed in tubing of a jetted bath to render the tubing adaptable to accept a close fit heater device, comprising:

a pipe section 10 having a center segment (the two center sections 42) between inlet and outlet end portions for fluid flow coupling to an inlet and an outlet of the tubing;

first (first section 42) and second 16 fittings disposed on the inlet and outlet portions of the pipe section;

wherein the pipe section includes first (left most 46) and second indicia (right most 46) on the pipe section (“that guide post-installation cutting of the pipe section at predetermined points” is considered intended use);

wherein the center segment (the two center sections 42) of the pipe section (“may be selectively removed from the pipe section by cutting at the first and second indicia, leaving the inlet and outlet portions including the first and second fittings” is intended use); and

wherein the fitting and pipe section assembly (“may accept the close fit device between the inlet and outlet portions of the fitting and pipe section assembly” is intended use).

In regard to claim 11, wherein the close fit device (“may be secured to the fittings by a first and second fastening assembly” is intended use).

In regard to claim 12, wherein the fitting and pipe section assembly is a unitary body.

In regard to claim 13, wherein the close fit device (“may be removably secured to the first and second fittings by the first and second fastening assembly” is intended use).

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In regard to claim 14, wherein the first fastening assembly comprises a union nut and a split nut retainer (the fastening assembly has not been positively recited, only the fitting and pipe section assembly).

In regard to claim 15, wherein the close fit device (not positively recited) has an inlet and an outlet with flanges positioned at the inlet and outlet; wherein the first fastening assembly comprises an outer seal which may be positioned between the first fitting and one of the flanges, a split nut which may be placed over the flange and rotated to couple the first fitting to the flange, and a nut cover which may be slid over the tightened split nut.

In regard to claim 16, wherein the close fit device (not positively recited) is selected from the group consisting of a heater, ozone generator, chemical dispenser, fragrance dispenser, filter, pump, valve, flow meter, or water softener.

In regard to claim 24, Henderson discloses a fitting and pipe section assembly that is capable of being installed in tubing of a jetted bath to render the tubing adaptable to accept a close fit device, comprising:

(a) a pipe section having a center segment disposed between inlet and outlet end portions for fluid flow coupling to an inlet and an outlet of the tubing, wherein the pipe section includes first and second indicia on the pipe section that guide post-installation cutting of the pipe section at predetermined points and removal of the center segment; and

(b) first and second fittings disposed on the inlet and outlet portions of the pipe section; wherein the center segment of the pipe section may be selectively removed leaving the inlet and outlet portions including the first and second fittings; and wherein the fitting and pipe section

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assembly may accept the close fit device between the inlet and outlet portions of the fitting and pipe section assembly.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIlroy in view of Matte et al.

In regard to claims 8 and 9, McIlroy discloses a fitting and pipe section as described above, but does not disclose that the pipe section is a T-junction. Matte et al. teaches that straight pipe sections and T-junctions are well known equivalents in the art. Therefore it would have been obvious to a person having ordinary skill in the art to modify the straight pipe section to include a T-junction because straight pipe and T-junction pipe are well known equivalents in the art, as demonstrated by Matte et al.

8. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson.

In regard to claims 17 and 18, Henderson discloses a fitting and pipe section as described above, but does not disclose that the pipe section is a T-junction. Matte et al. teaches that straight pipe sections and T-junctions are well known equivalents in the art. Therefore it would have been obvious to a person having ordinary skill in the art to modify the straight pipe section to include a T-junction because straight pipe and T-junction pipe are well known equivalents in the art, as demonstrated by Matte et al.

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Response to Arguments

9. Applicant's arguments with respect to claims 1, 3-19, 24 and 26-27 have been considered but are moot in view of the new ground(s) of rejection.

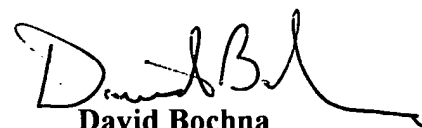
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McKinnon discloses a similar coupling common in the art.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

A handwritten signature in black ink, appearing to read 'David Bochna', with a long horizontal flourish extending to the right.

**David Bochna
Primary Examiner
Art Unit 3679
February 10, 2005**